

1816.


U. States
v.
Coolidge.


(CONSTITUTIONAL LAW.)

The UNITED STATES v. COOLIDGE, et. al.

Quere, whether the courts of the United States have jurisdiction of offences at common law against the United States?

THIS was an indictment in the circuit court for the district of Massachusetts, against the defendants, for forcibly rescuing a prize, which had been captured and taken possession of by two American privateers. The captured vessel was on her way, under the direction of a prize master and crew, to the port of Salem for adjudication. The indictment laid the offence as committed upon the high seas. The question made was, whether the circuit court has jurisdiction over common law offences against the United States? on which the judges of that court were divided in opinion.

The *Attorney-General* stated that he had given to this case an anxious attention; as much so, he hoped, as his public duty, under whatever view of it, rendered necessary. That he had also examined the opinion of the court, delivered at February term, 1813, in the case of the *United States v. Hudson and Goodwin*. That considering the point as decided in that case, whether with, or without, argument, on the part of those who had preceded him as the *re-*

1816.

 U. States
 v.
 Coolidge.

representative of the government in this court, he desired respectfully to state, without saying more, that it was not his intention to argue it now.

STORY, J. I do not take the question to be settled by that case.

JOHNSON, J. I consider it to be settled by the authority of that case.

WASHINGTON, J. Whenever counsel can be found ready to argue it, I shall divest myself of all prejudice arising from that case.

LIVINGSTON, J. I am disposed to hear an argument on the point. This case was brought up for that purpose, but until the question is re-argued, the case of the United States v. Hudson and Goodwin must be taken as law.

March 21st. JOHNSON, J. delivered the opinion of the court.

Upon the question now before the court a difference of opinion has existed, and still exists, among the members of the court. We should, therefore, have been willing to have heard the question discussed upon solemn argument. But the attorney-general has declined to argue the cause; and no counsel appears for the defendant. Under these circumstances the court would not choose to review their former decision in the case of the United States v. Hudson and Goodwin, or draw it into doubt. They

will, therefore, certify an opinion to the circuit court in conformity with that decision.

1816.


The
St. Nicholas.

Certificate for the defendant.^a

^a Vide, 1 *Gallison*, 488, for the jurisdiction are cognizable by the learned and elaborate opinion of circuit court, and in the absence of Mr. J. STORY, in the circuit court, of positive law, are punishable by fine and imprisonment. in this case, tending to show that all offences within the admiralty



(PRIZE.)

The St. Nicholas.—MEYER ET AL. *Claimants.*

A question of proprietary interest.

Where enemy's property is fraudulently blended in the same claim with neutral property, the latter is liable to share the fate of the former.

APPEAL from the circuit court of Georgia. This vessel and the cargo were libelled as prize of war. The ship was claimed by John E. Smith, the supercargo, in behalf of John Meyer, alleged to be a Russian subject residing at St Petersburg. The cargo consisted of logwood and cotton, 200 bales of which were claimed by Smith, in behalf of Platzman & Gosler, also alleged to be Russian merchants of St. Petersburg. The remainder of the cargo, consisting of 950 bales of cotton, and 58 tons of logwood, were